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Patent Docket No. P0718P2C1D1C1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

<p>In re Application of:</p> <p>Jardieu <i>et al.</i></p> <p>Serial No.: 09/925,179</p> <p>Filed: August 8, 2001</p> <p>For: Anti-IgE Antibodies</p>	<p>Group Art Unit: 1642</p> <p>Examiner: M. Davis</p>
	<p>CERTIFICATE OF FACSIMILE TRANSMISSION</p> <p>I hereby certify that this correspondence is being sent via facsimile to Commissioner for Patents, at facsimile number (703) 872-9306 on <u>JULY 18, 2003</u>.</p> <p>BY: <u>Tina M. Ingrande</u> Tina M. Ingrande</p>

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8-423

Response to Species Election

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Office Action (Paper No. 5) mailed herein on June 30, 2003.

The Examiner has alleged that an election of species is required amongst the following groups:

- 1) IgG1, IgG3, IgG3 or IgG4 antibody;
- 2) Any one of the following amino acid residues at position 60: Asparagine, Glutamine, Histidine, Lysine or Arginine;
- 3) Any one of the following amino acid residues at position 61: Proline, Glycine, Alanine, Valine, Leucine or Isoleucine.

In response, while not conceding to the Examiner's allegations, Applicants hereby elect in the above identified species categories, an IgG1 antibody with asparagine at Kabat position 60 and a proline at Kabat position 61. Claims that read on IgG1 includes Claims 59-63. Claims that

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read on an IgG1 antibody that also has amino acids modified at position 60 include Claims 60 and 61. Claims that read on an IgG1 antibody that also have amino acids modified at position 60 and 61 include claims 62 and 63.

As this is an election of species, and not a restriction, the Examiner is reminded of M.P.E.P. § 809.02(c) (B) (1) which prescribes that when a generic claim is found to be allowable . . . all claims to each of the additional species that are embraced by an allowable claim . . . that claims drawn to the non-elected species are no longer withdrawn since they are fully embraced by the allowed generic claim. Claim 58 is generic.

While no fee is believed warranted for consideration of this response, the Commissioner is nonetheless authorized to charge any additional fees that may be required, including extension fees, or credit any overpayment to Deposit Account No. 07-0630.

The Examiner is invited to contact the undersigned at (650) 225-1489 in order to expedite the resolution of any issues.

Respectfully submitted,
GENENTECH, INC.

By: 

Craig G. Svoboda
(Reg. No. 39,044)

Date: July 18, 2003



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